UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

IN RE: PRACTICEFIRST DATA BREACH LITIGATION

21-CV-790 (JLS) (MJR)

DECISION AND ORDER

Plaintiffs Peter Tassmer, Karen Cannon, Paul Commisso, and Glenda Johnson filed a consolidated class action complaint[1] against Defendant Professional Business Systems d/b/a Practicefirst Medical Management Solutions and PBS Medcode Corp. Dkt. 22. Plaintiffs' claims are based on a data breach resulting in the unauthorized disclosure of their personal and confidential information. The Court referred the case to United States Magistrate Judge Michael J. Roemer to, among other things, hear and report upon dispositive motions pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Dkt. 17.

Defendant filed a motion to dismiss, Dkt. 23, Plaintiffs responded, Dkt. 25, and Defendant replied. Dkt. 27. On February 2, 2022, Judge Roemer issued a

[1] The consolidated complaint was filed pursuant to a Stipulation and Order, which consolidated, for pre-trial purposes, the matters of *Tassmer et al. v. Professional Business Services d/b/a PracticeFirst Medical Management Solutions and PBS Medcode Corp.*, No. 1:21-cv-00970, and *Commisso et al. v. Professional Business Services*, No. 1-21-cv-00937, as well as any subsequently filed related actions, pursuant to Federal Rule of Civil Procedure 42(a). Dkt.15

report and recommendation ("R&R") that recommends granting Defendant's motion to dismiss because Plaintiffs failed to establish standing. Dkt. 31.

Plaintiffs filed objections. Dkt. 35. Overall, Plaintiffs argue they have pleaded sufficient facts to establish standing. Defendant filed a response, Dkt. 37, and Plaintiffs filed a reply. Dkt. 39.

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which an objection is made. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

The Court carefully reviewed the R&R and the relevant record. Based on that *de novo* review, the Court accepts and adopts the R&R.

CONCLUSION

For the reasons stated in the R&R, the Court GRANTS Defendant's motion to dismiss. The consolidated class action complaint is dismissed. The Clerk of Court shall close this case.

SO ORDERED.

Dated: August 1, 2022
Buffalo, New York

JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE